

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

DENNY P. NEIL,

Plaintiff,

v.

SEACOR MARINE, LLC,

Defendant.

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CIVIL ACTION NO. G-05-369

**ORDER DENYING AS MOOT DEFENDANT SEACOR MARINE, LLC’S MOTION FOR
SUMMARY JUDGMENT**


This case arises out of alleged injuries sustained by Denny P. Neil (“Plaintiff”) while he was aboard the SEA HORSE IV, owned and operated by Defendant Seacor Marine, LLC (“Defendant”). Now before the Court is Defendant’s Motion for Summary Judgment. For the following reasons, Defendant’s Motion is **DENIED AS MOOT**.

On January 18, 2006, Defendant moved for summary judgment on Plaintiff’s Jones Act, unseaworthiness, and maintenance and cure claims on the ground that Plaintiff was not a Jones Act seaman at the time of the events giving rise to his alleged injuries. In his Response, Plaintiff indicated that he intended to amend his Complaint to include claims of negligence under general maritime law as set forth in *Kemarec v. Compagnie Generale Transatlantique*, 358 U.S. 625, 79 S. Ct. 406, 3 L. Ed. 2d 550 (1959), and/or claims arising under § 905(b) of the Longshore Harbor Workers’ Compensation Act (“LHWCA”). 22 U.S.C. § 905. Given the pendency of Defendant’s Motion and the likelihood of its success, the Court granted Plaintiff an additional 10 days to file an Amended

Complaint. On February 23, 2006, Plaintiff filed his First Amended Complaint, eliminating his Jones Act claims. Now Plaintiff only asserts claims under the general maritime law and the LHWCA. No questions of fact or law remain as to Plaintiff's seaman status under the Jones Act, which have been rendered moot by Plaintiff's Amended Complaint. Therefore, Defendant's Motion for Summary Judgment is **DENIED AS MOOT**. Each Party is to bear its own taxable costs, attorneys' fees, and expenses incurred herein to date.

IT IS SO ORDERED.

DONE this 1st day of March, 2006, at Galveston, Texas.



Samuel B. Kent
United States District Judge